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BOOK NOTICES.

VIRGINIA REPORTS.—*Reports of Cases in the Supreme Court of Appeals of Virginia.* By Martin P. Burks, State Reporter. Vol. XCI. From Jan. 1, 1895, till July 18, 1895. Richmond: J. H. O'Bannon, Superintendent of Public Printing. 1896.

This new volume of the Virginia Reports marks the beginning of an interesting period in the judicial history of the State. It is the first volume of the decisions of the new Supreme Court of Appeals, which went into office in January, 1895, amid the joyful acclaim of the profession and the people. It is not proposed now to speak of the Court, nor of its work; but of the Reporter, and of his work.

If it were the sole requisite of a good reporter that he should be a first-rate lawyer, no practical test would have been needed to demonstrate the fitness of Mr. Burks for his office; his reputation as a lawyer and a law writer would have amply justified his selection. Without attempting to designate all the qualities of a really good reporter, three may be mentioned, without which no man can be really such; these are highly developed powers of discrimination, condensation, and analysis. The reporter does not create; he takes to pieces, and reconstructs in miniature. He is (or ought to be) a skilled specialist, an analyst, whose sole duty it is to take the work as he finds it, reduce it to its constituent elements, and out of these produce the minutest possible photograph of the whole, which shall yet show every feature of the decision. The book before us abundantly demonstrates Mr. Burks's capacity to do these things, and in the most excellent manner.

A critical examination of his work has disclosed little or nothing to be desired. The head-notes, so far as we have observed, never fail to embrace the whole scope of the decision; and whether they deal with abstract principles of law, or with the law as applied to the facts of the case, they are equally satisfactory. We think, indeed, that he has been conspicuously successful in his treatment of the facts in the head-notes—a matter in which many reporters signally fail. Mr. Burks seems to proceed on the theory that the less the head-note has to do with the facts of the case the better, and in this we heartily concur; and it is very gratifying to note here the total absence of the tedious and circumstantial recital of involved and complicated transactions between A, B, and C, which is usually quite unintelligible, and which renders so many head-notes practically useless.

There is another matter in which, as we think, Mr. Burks is to be commended, and that is for putting into the head-notes all that the court actually determined, even though it was not necessary to the decision of the case. This is a matter in which opinions differ, but we think that the better reason is with our Reporter. In the first place, we do not think that it is the province of the reporter to determine what is and what is not *obiter*; that is a matter for the courts to settle when occasion arises; and we imagine that a reporter who should thus attempt to interpret the decisions would likely find himself in trouble with his court. Again, all the deliverances of the court on every subject are of great interest and importance to the bench and the bar; it would not be easy, we imagine, to overestimate their value; but if they do not appear in the head-notes they will never find their way into the index, and thus, according to Mr. Bishop, for all practical purposes they will not be in the book. Take as an illustration of this the case of

Pearson v. Supervisors, &c., at p. 322 in this volume. A syllabus after the style which we are here opposing would have omitted all the head-notes except the last one of the nine, and yet such a report of that case would have been intolerable.

We think that the bench and the bar will heartily approve of Mr. Burks's returning to the time-honored practice, which prevailed in the Virginia Reports down to 1883, of putting all the criminal cases together at the end of the volume.

In the matter of the index the Reporter has made a distinct advance in law-reporting in Virginia, one result of which is that he has greatly reduced its volume without impairing its practical utility. He has omitted the titles "Practice at Common Law" and "Practice in Chancery," and has placed under more specific titles the matter usually found under these heads. The whole subject of criminal law is indexed under the title "Criminal Law and Procedure," under which the sub-titles are arranged in alphabetical and sub-alphabetical order, and these titles do not appear anywhere else in the index; the cross-references are all under the general head. This is explained in the preface, and when once understood it is obviously convenient, though those hasty people who use a book without reading the preface will likely be much puzzled at first. This preface, by the way, is of historical value, and is all the more welcome because it is the first of the kind we have had in a volume of Virginia Reports since 1844.

There are two or three other things, small in themselves, but of great practical utility, which will add to the usefulness of this volume. We dare say that few lawyers begin to read an opinion without first turning to the end to see whether the decision of the court below was affirmed or reversed; it will not be necessary to do so here, for the Reporter has stated that fact at the beginning, as well as at the end, of the opinion. The number of the volume is printed in the fold or "gutter space" of the book throughout the volume, so that in citing or quoting from it it will not be necessary to close the book and look at the back to be sure of the number of the volume. A more important matter is that all statutes copied into the opinions are printed in smaller type than the text, and in separate paragraphs; this is an excellent idea, and we only regret that it was not extended to *all* matter foreign to the text but copied into it, such as instructions, bills of exceptions, quotations from books, deeds, and other instruments, &c., &c. We should greatly like to see this done in the subsequent volumes.

Finally, Mr. Burks's modesty as a reporter seems to be equal to his merit. He has omitted his name from the back of the book, substituting therefor a statement of the period of time covered by the decisions. It is a deserved tribute to both his modesty and his merit to say that he will probably feel amply rewarded if, in consequence, he shall never see in brief or opinion the absurd citation: "91 Virginia Reports (1 Burks), p. —."

JAMES C. LAMB.

The Works of JAMES WILSON, Associate Justice of the Supreme Court of the United States and Professor of Law in the College of Philadelphia. Edited by James DeWitt Andrews, Chicago: Callaghan & Co. 1896.

The original edition of this work was published by Mr. Bird Wilson in 1804, after the death of the author, which occurred in 1798. Mr. Andrews has made a valuable contribution to the constitutional jurisprudence of the country by this edition of the original work, containing the enlightened views of an eminent and